

Attorney Docket No.: 01CON263P
Application Serial No.: 09/990,059

REMARKS

In the Office Action of September 20, 2005, the Examiner has rejected claims 1-24. By the present amendment, applicant has amended claims 1, 8 and 9, and added new claims 25-31. After the present amendment, claims 1-31 remain pending in the present application. Reconsideration and allowance of outstanding claims 1-31 in view of the above amendments and following remarks are requested.

A. Rejection of Claims 1 and 3-5 under 35 USC §102(e)

The Examiner has rejected claims 1 and 3-5, under 35 USC §102(e), as being anticipated by U.S. Patent Number 6,128,300 to Horton ("Horton").

By the present amendment, applicant has amended claim 1 to recite "wherein said linecard generates a dial tone and a linecard indication indicative of existence of said linecard modem in response to said linecard detecting said client modem being in an off-hook state."

Applicant notes that in rejecting independent claim 15, the Examiner has acknowledged that "transmitting a linecard indication" is not taught by Horton; however, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to send such indication. Applicant respectfully disagrees. Applicant respectfully submits that although Horton references that POTS signaling circuitry 431-434 generates dial tone and receives POTS off-hook indicator signal (see col. 5, lines 2-6), Horton fails to disclose, teach or suggest that "said linecard generates ... a linecard indication indicative of existence of said linecard modem." In fact, there is no teaching or suggestion, whatsoever, in Horton that the linecard indicates the existence of the

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linecard modem to the client modem in response to detecting the client modem being in an off-hook state.

As shown in FIG. 3 of the present application and described in its related written description, generation of linecard indication indicative of existence of the linecard mode is quite significant, which may, for example, be used by the client modem to skip dialing a phone number, which shortens the connection time (see, e.g., steps 315, 350 and 355 of FIG. 3.) Applicant respectfully submits that Horton does not suggest a desirability of generating linecard indication indicative of existence of the linecard mode. This is further confirmed by the Examiner's own acknowledgement that Horton does not teach "transmitting a linecard indication." The Examiner's attention is respectfully directed to the following rules annunciated by the Federal Circuit, which compel allowance of claim 1, as amended:

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification" (emphasis added.) In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984), see also In re Fitch, 972 F.2d 1260 (Fed. Cir. 1992).

In a proper obviousness determination, "whether the changes from the prior art are 'minor', ... the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee's ... device." (citations omitted.) This includes what could be characterized as simple changes, as in *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. (BNA) 1125, 1127 (Fed. Cir. 1984) (Although a prior art device could have been turned upside down, that did not make the modification obvious unless the prior art fairly suggested the desirability of turning the device upside down). (emphasis added.) In re Chu, 66 F.3d 292, 298 (Fed. Cir. 1995).

Accordingly, applicant respectfully submits that claim 1, as amended, and its dependent claims 2-7 should be allowed.

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B. Rejection of Claims 6-7 and 15-24 under 35 USC §103(a)

The Examiner has rejected claims 6-7 and 15-24, under 35 USC §103(a), as being unpatentable over Horton.

Applicant respectfully submits that claims 6 and 7 depend from claim 1 and should be allowed at least for the same reasons stated above in conjunction with patentability of claim 1, as amended.

The Examiner has acknowledged that "transmitting a linecard indication" of claim 15 is not taught by Horton; however, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to send such indication. For the reasons stated above in conjunction with patentability of claim 1, as amended, applicant respectfully submits that Horton does not close to remotely suggesting a desirability of "transmitting a linecard indication indicative of existence of said linecard modem; receiving a client indication indicative of existence of said client modem," as recited in claim 15.

Accordingly, applicant respectfully submits that claim 15, and its dependent claims 16-24, should be allowed.

C. Rejection of Claims 2 and 8-14 under 35 USC §103(a)

The Examiner has rejected claims 2 and 8-14, under 35 USC §103(a), as being unpatentable over Horton in view of Applicant's Admitted Prior Art ("AAPA"). Applicant respectfully disagrees.

Claim 2 recites "wherein said linecard includes a conversion module capable of generating digitized analog samples of linear/uniform spacing." In rejecting claim 2, the

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Examiner states:

With regard to claim 2, Horton teaches the invention as described above, but does not teach having the linecard be capable of generating digitized analog samples of linear/uniform spacing. AAPA teaches generating A/U digitized analog signals (see page 2 lines 24+), wherein having them be of linear/uniform would be an obvious form.

Applicant respectfully submits that the Examiner's reliance on AAPA is misplaced. First, AAPA does not teach or remotely suggest a desirability of changing the format for the digitized analog samples from A/ μ -law PCM to linear/uniform spacing. AAPA simply describes the conventional system that has been known to utilize A/ μ -law PCM. It is unclear as to how using A/ μ -law PCM in the conventional systems renders using linear/uniform spacing obvious to one of ordinary skill in the art. Even more, Horton does not teach or remotely suggest a desirability of changing the format for the digitized analog samples from A/ μ -law PCM to linear/uniform spacing. As stated above, "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." Applicant respectfully submits that neither AAPA nor Horton suggest the desirability of modifying the long-adopted conventional approach of using A/ μ -law PCM for formatting the digitized analog samples to linear/uniform spacing. Accordingly, claim 2 should be allowed for these reasons and the reasons stated above in conjunction with patentability of claim 1.

Further, independent claim 8 includes a limitation similar to that of claim 2, which reads "a conversion module in communication with said client modem, said conversion module being capable of generating digitized analog samples of linear/uniform spacing." Applicant

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respectfully submits that independent claim 8, and its dependent claims 9-14, should be allowed at least for the reasons stated above in conjunction with patentability of claim 2.

D. New Claims 25-31

By the present amendment, applicant has added new dependent claims 25-31. Claim 25 depends from claim 1 and recites "wherein said client modem transmits a client indication indicative of existence of said client modem in response to said linecard indication, and wherein said client modem and said linecard modem start handshaking without said client modem dialing a number." In addition to the reasons stated above in conjunction with patentability of claim 1, claim 25 should be allowed, because the cited references fail to disclose, teach or suggest "wherein said client modem transmits a client indication indicative of existence of said client modem in response to said linecard indication" and "wherein said client modem and said linecard modem start handshaking without said client modem dialing a number."

Further, claim 26 depends from claim 25 and recites "wherein said linecard modem does not generate an answer tone for said handshaking." In addition to the reasons stated above in conjunction with patentability of claims 1 and 25, claim 26 should be allowed, because the cited references fail to disclose, teach or suggest "wherein said linecard modem does not generate an answer tone for said handshaking."

Also, claim 27 depends from claim 1 and recites "wherein said client modem dials a number in response to said dial tone, and wherein said linecard identifies said number as a modem call and configures said linecard modem to start handshaking with said client modem without generating an answer tone." In addition to the reasons stated above in conjunction with

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patentability of claim 1, claim 27 should be allowed, because the cited references fail to disclose, teach or suggest “wherein said linecard identifies said number as a modem call and configures said linecard modem to start handshaking with said client modem without generating an answer tone.”

Moreover, claim 28 depends from claim 8 and recites “wherein said linecard generates a dial tone and a linecard indication indicative of existence of said linecard modem in response to said linecard detecting said client modem being in an off-hook state.” In addition to the reasons stated above in conjunction with patentability of claim 8, claim 28 should be allowed, because of the reasons stated above in conjunction with patentability of claim 1.

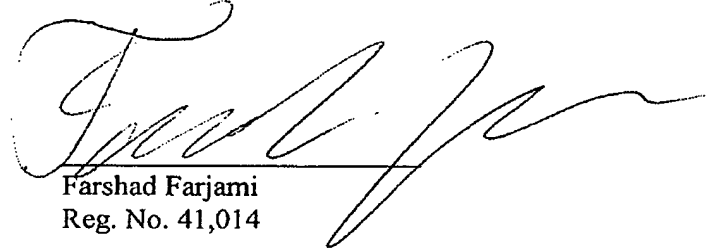
Furthermore, new dependent claims 29-31 depend from claim 8, and include limitations similar to those of new dependent claims 25-27, respectively. Therefore, claims 29-31 should also be allowed for one or more reasons stated above.

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E. Conclusion

For all the foregoing reasons, an early Notice of Allowance directed to claims 1-31 is respectfully requested.

Respectfully Submitted,
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